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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,993	07/24/2001	David M. Vande Berg	01,241	5138
24030	7590	11/10/2003	EXAMINER	
SHUGHART THOMSON & KILROY, PC 120 WEST 12TH STREET KANSAS CITY, MO 64105			LE, UYEN CHAU N	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/911,993	VANDE BERG, DAVID M.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Uyen-Chau N. Le	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Prelim. Amdt/Amendment***

1. Receipt is acknowledged of the Amendment filed 20 August 2003.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6-7, 13-16 and 20-22 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Black et al (US 6,494,305) in view of Heckman (US 4,708,066).

Re claims 1-4, 6-7, 13-16 and 20-22: Black et al discloses a mounting apparatus 20 for attaching a transponder 40, which serves as an RF tag, to a conveyor trolley 22 having a wheel 36 with a hub, an outer rim (fig. 3), the mounting apparatus 20 comprising a carcass-tracking apparatus 30, which serves as a block of material, which the transponder 40/RF tag is secured; wherein the block 30 is securable to the wheel 36 (figs. 1-3; col. 3, lines 1-34) by screws/threaded fasteners through apertures/threaded fastener receivers [51, 53]; wherein the RF tag/transponder 40 is at least partially imbedded in the block/housing 36 (figs. 4-13; col. 3, lines 35+). The conveyor trolley 22 comprising a metallic body 34, which serves as a strap, having a first and second legs connected by an arch (fig. 3), wherein the wheel 36 is rotatably mounted on an axle between the first and second legs of the strap

(fig. 3); a hook 24 extending downward from the first leg for suspending a load therefrom (figs. 2-3; col. 3, lines 1+). The conveyor trolley 22 further having a wheel 36 for engaging a track 28 (fig. 1).

Black et al fails to teach or fairly suggest that the mounting apparatus having a recess formed between the hub and the outer rim wherein the block being shaped to be received within the recess.

Heckman teaches a wheel 24 having a hub 53, an outer rim, a web 55 connecting the outer rim to the hub 53, wherein the web 55 comprising a plurality of spokes separated by openings (fig. 5), the spokes having a thickness less than the thickness of the outer rim and a recess formed between the hub and the outer rim (figs. 4-5, col. 3, lines 40-63).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate a recess formed between the hub and the outer rim as taught by Heckman into the teachings of Black et al in order to receive the block containing the transponder/RF tag to provide Black et al with a more secure system, wherein the block having the tag is secured within the recess, preventing the block from being separated from the wheel by loosening/falling (i.e., in the event one of the screws/bolts become loose). Furthermore, such modification would provide Black et al with a more compact system wherein the block is mounted within the recess between the hub and the outer rim instead of mounting directly on the outer surface of the outer rim, and thus providing a more aesthetic system.

4. Claims 8-9, 11-12, 17-19 and 23 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Black et al as modified by Heckman as applied to claims 1, 4 and 13 above, and further in view of Mitchell (US 3,708,847). The teachings of Black et al as modified by Heckman have been discussed above.

Re claims 8-9, 11-12, 17-19 and 23: Black et al as modified by Heckman have been discussed above but fail to teach or fairly suggest the block is securable to the web of the wheel by a clamping member wherein the clamping member is a second block of material.

Mitchell teaches a clamping means 18 comprising four clamp plates 22 secured to each spoke 20 of the web of the wheel via recess 23 (fig. 4; col. 3, lines 40-56).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate a clamping member as taught by Mitchell into the teachings of Black et al/Heckman in order to provide Black et al/Heckman a more secure system to hold/secure the block containing/having the tag to the wheel, preventing the block from being separated from the wheel.

5. Claims 5 and 10 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Black et al as modified by Heckman as applied to claims 1 and 4 above, and further in view of Hoffman et al (US 5,156,533). The teachings of Black et al as modified by Heckman have been discussed above.

Re claims 5 and 10, Black et al as modified by Heckman have been discussed above but fail to teach or fairly suggest that the block(s) is formed of a plastic material.

Hoffman et al teaches the bearing sleeves halves [30, 32] are made from a self-lubricating plastic (fig. 2; col. 3, lines 30+).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the use of plastic as taught by Hoffman et al into the teachings of Black et al/Heckman to form the block carrying the tag in order to reduce friction engagement between the conveyor trolley having the block mounted therein with the track when the conveyor trolley is moving along the track.

***Response to Arguments***

6. Applicant's arguments filed 20 August 2003 have been fully considered but they are not persuasive.

7. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning (p. 9, 2<sup>nd</sup> paragraph and p. 10, last paragraph), it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

8. In response to applicant's argument that there is no suggestion to combine the references (p. 9, 2<sup>nd</sup> paragraph), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the primary reference to Black et al discloses a mounting apparatus for attaching **a transponder/RF tag 40** comprising a carcass-tracking apparatus/*block material 30 securable to the wheel 36* (figs. 1-3; col. 3, lines 1-34); the RF tag/transponder 40 is imbedded in the block 36 (figs. 4-13; col. 3, lines 35+). However, Black et al is silent with respect to *a recess*. The secondary reference to Heckman teaches *a recess* forming between the hub 53 and the outer rim (see figs. 4-5). Accordingly, the claimed limitation, given the broadest reasonable interpretation, Black et al in view of Heckman meets the claimed invention (see the rejection above).

9. In response to applicant's argument that there is no suggestion to combine the references (p. 10, 3<sup>rd</sup> paragraph), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the primary reference to Black et al discloses a mounting apparatus for attaching **a transponder/RF tag 40** comprising a carcass-tracking apparatus/*block material 30 securable to the wheel 36* (figs. 1-3; col. 3, lines 1-34); the RF tag/transponder 40 is imbedded in the block 36 (figs. 4-13; col. 3, lines 35+). However, Black et al is silent with respect to *a recess*. The secondary reference to Heckman teaches *a recess* forming between the hub 53 and the outer rim (see figs. 4-5). Black et al as modified by Heckman is silent with respect to *a clamping member*, which is a second block material, for securing the block material to the web of the wheel. The third reference to Mitchell teaches *clamping members/block materials 22* are secured to each spoke 20 of the web of the wheel via recess 23 (see fig. 4). Accordingly, the claimed limitation, given the broadest reasonable interpretation, Black et al as modified by Heckman in view of Mitchell meets the claimed invention (see the rejection above).

10. In response to applicant's argument that there is no suggestion to combine the references (p. 12, 1<sup>st</sup> paragraph), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the primary reference to Black et al discloses a mounting apparatus for attaching **a transponder/RF tag**

40 comprising a carcass-tracking apparatus/*block material 30 securable to the wheel 36* (figs. 1-3; col. 3, lines 1-34); the RF tag/transponder 40 is imbedded in the block 36 (figs. 4-13; col. 3, lines 35+). However, Black et al is silent with respect to *a recess*. The secondary reference to Heckman teaches *a recess* forming between the hub 53 and the outer rim (see figs. 4-5). Black et al as modified by Heckman is silent with respect to *a plastic material*, which is used to form the block material. The third reference to Hoffman et al teaches a *self-lubricating plastic* is used to form the bearing sleeves halves [30, 32] (see col. 3, lines 30+). Accordingly, the claimed limitation, given the broadest reasonable interpretation, Black et al as modified by Heckman in view of Hoffman et al meets the claimed invention (see the rejection above).

For the reasons stated above, the Examiner believes that a proper prima-facie case of obviousness has been established. Therefore, the Examiner has made this Office Action final.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen-Chau N. Le whose telephone number is 703-306-5588. The examiner can normally be reached on SUN, M, W, F 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL G LEE can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

*Uyen-Chau N. Le*  
October 24, 2003



KARL D. FRECH  
PRIMARY EXAMINER